

## **REMARKS**

### **I. Introductory Matter**

Claims 1-4 and 19 -26 were cancelled as they were nonelected with traverse due to an earlier restriction requirement. Claims 27-40 were previously cancelled. Claims 41-43 are cancelled herein to satisfy the Examiner's requirement in the Office Action mailed May 12, 2009.

Claims 5 and 15 have been amended for clarification, replacing "a" with "the." No new matter has been added.

### **II. Claim Rejections – 35 U.S.C. § 102(b)**

Claims 5-18 stand rejected under 35 U.S.C. § 102(b) as being allegedly unpatentably over U.S. Patent No. 5,859,204 to Lollar ('204). Applicant respectfully disagrees with Examiner and asserts that the '204 patent does not disclose high-level expression of SEQ. ID. NO.: 38, nor does the '204 patent characterize the expression of SEQ. ID. NO.: 38. Applicants have adopted the Examiner's suggestion and amended and thereby clarified independent claims 5 and 15 to recite "the" rather than "a," and understand that the amendment obviates the rejection.

For this reason, Applicants respectfully request that claims 5-18 are in condition for allowance.

### **III. Claim Rejections – 35 U.S.C. § 102(e)**

Claims 5-18 stand rejected under 35 U.S.C. § 102(e) as being unpatentable over U.S. Patent No. 6,458,563 to Lollar ('563). An application issued to the same inventive entity cannot be prior art under § 102(e). MPEP § 706.02(a)(II)(B). In the event that Examiner was referring to Section 102(b), Applicant respectfully disagrees with Examiner and asserts that the '563 patent does not disclose high-level expression of SEQ. ID. NO.: 37, nor does the '563 patent characterize the expression of SEQ. ID. NO.: 37. Applicants have adopted the Examiner's suggestion and amended and thereby clarified independent claims 5 and 15 to recite "the" rather than "a," and understand that the amendment obviates the instant rejection.

### **IV. Claim Rejections – 35 U.S.C. § 112**

Applicants have cancelled claims 41-43.

### SUMMARY

Applicant respectfully submits that the application is in condition for allowance and requests that a Notice of Allowance issue. The Examiner is invited to contact the undersigned attorney for Applicant via telephone at (312) 321-4271 if such communication would expedite this application.

Respectfully submitted,

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Heather N. Schafer Reg. No. 64,734  
Attorney for Applicant

BRINKS HOFER GILSON & LIONE  
PO BOX 10395  
CHICAGO, IL 60610  
(312) 321-4200